IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Application No.2951 of 2007

Subhash M. Mohite Applicant

Vs.

Pravin Kanvide & anr. Respondents

Mr.S.M.Mangaonkar for applicant.

Mr.S.R.Shinde, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 10, 2007.

P.C.

. Heard Mr.Mangaonkar, the learned counsel for the applicant who is impleaded as an accused in CC No. 10637/SS/06 and 3000190/SS/2007. After the cross-examination of the complainant was over, the applicant filed an application in CC No.3000190/SS /2007 seeking directions to the complainant to submit certain documents and the said application, after hearing both the parties, has been dismissed by the learned Metropolitan Magistrate, 30th Court, Kurla,

Mumbai vide his order dated 16/8/2007 and hence this petition.

. The learned Judge of the trial Court rejected the application on mainly two grounds viz. (a) that the applicant did not specify the reasons for which these documents are found to be relevant and (b) the burden to prove the ingredients of Section 138 of the Negotiable Instruments Act, 1881 is on the complainant and it is for the accused to rebut the presumption by either adducing evidence or by cross-examining the complainant. As per the trial Court if the complainant relied upon certain documents, it was for him to file those documents and if he did not bring them on record obviously inference will have to be drawn against him.

. It was the case of the complainant that he had given the hand loan to the accused from his personal funds and the record called for was in respect of the business firms of the complainant and, therefore, the trial Court did not find them relevant. The view taken by the trial Court is a possible view and it cannot be termed as perverse or grossly erroneous and, therefore, no interference in called for in the

interlocutory order, under Article 227 of the Constitution.

. The petition is rejected summarily.

(B.H.MARL